

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

DAVID AGOADO, LEEANN MCNALLY,
CRAIG MOORE, CHRIS PIERRE,
THOMAS SHARKEY, and DOREEN
VAZQUEZ, individually and on behalf of all
others similarly situated

Plaintiffs

v.

MIDLAND FUNDING, LLC, MIDLAND
FUNDING, LLC DBA IN NEW YORK AS
MIDLAND FUNDING OF DELAWARE,
LLC, and MIDLAND CREDIT
MANAGEMENT, INC., RUBIN &
ROTHMAN, LLC, FORSTER & GARBUS
LLP, COHEN & SLAMOWITZ, LLP, and
PRESSLER AND PRESSLER, LLP

Defendants

Case No. 2:14-cv-00018-WFK-ST

**DECLARATION OF MICHAEL J.
PETERS, ESQ. IN OPPOSITION TO
PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT**

I, **Michael J. Peters**, of full age, do hereby declare as follows:

1. I am an attorney at law in the States of New Jersey and New York and I am associated with the law firm of Pressler, Felt & Warshaw, LLP, formerly Pressler & Pressler, LLP (hereinafter "Pressler"), a Defendant in the above-captioned matter. I make this declaration based upon my personal knowledge obtained from a review of Pressler's files and records and my litigation file with respect to the instant action.

2. I make this declaration in opposition to Plaintiffs' Notice of Motion for Partial Summary Judgment to support Pressler's Additional Facts set forth in its responsive Local Rule 56.1 statement.

3. Annexed hereto as **Exhibit A** is a true and accurate copy of chain of title documentation produced in discovery in this action related to Plaintiff Craig Moore's collection account and identified with bate-stamp P&P #231 through #234.

4. Annexed hereto as **Exhibit B** is a true and accurate copy of the Affidavit of Paula Hensen submitted in connection with the default judgment application as to Plaintiff Craig Moore's collection account. Said document was produced in discovery in this action and identified with bate-stamp P&P #164 through #167.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: January 14, 2022

By: /s/ Michael J. Peters
Michael J. Peters, Esq.
7 Entin Road
Parsippany, NJ 07054
Telephone: (973) 753-5100
Facsimile: (973) 753-5353
mpeters@pfwattorneys.com
Attorney for Defendant,
Pressler and Pressler, LLP

PETERS DECLARATION IN OPPOSITION
EXHIBIT A



GE Money Bank

BILL of SALE

Fresh Forward Flow- June 2010

For value received and in further consideration of the mutual covenants and conditions set forth in the Forward Flow Receivables Purchase Agreement (the "Agreement"), dated this 1st day of July, 2009 by and between General Electric Capital Corporation, a Delaware corporation, GE Money Bank, a federal savings bank, and Retailer Credit Services Inc, a Delaware corporation (collectively "Seller") and Midland Funding LLC ("Buyer"), Seller hereby transfers, sells, conveys, grants, and delivers to Buyer, its successors and assigns, without recourse except as set forth in the Agreement, to the extent of its ownership, the Receivables as set forth in the Notification Files (as defined in the Agreement), delivered by Seller to Buyer on June 28, 2010 and as further described in the Agreement.

GE Money Bank

By: _____

Title: CFO

Retailer Credit Services Inc

By: _____

Title: President

General Electric Capital Corporation

By: _____

Title: Vice President



GE Money Bank

BILL of SALE

Fresh Forward Flow- June 2010

For value received and in further consideration of the mutual covenants and conditions set forth in the Forward Flow Receivables Purchase Agreement (the "Agreement"), dated this 1st day of July, 2009 by and between General Electric Capital Corporation, a Delaware corporation, GE Money Bank, a federal savings bank, and Retailer Credit Services Inc, a Delaware corporation (collectively "Seller") and Midland Funding LLC ("Buyer"), Seller hereby transfers, sells, conveys, grants, and delivers to Buyer, its successors and assigns, without recourse except as set forth in the Agreement, to the extent of its ownership, the Receivables as set forth in the Notification Files (as defined in the Agreement), delivered by Seller to Buyer on June 28, 2010 and as further described in the Agreement.

GE Money Bank

By: Michael Leary

Title: CFO

Retailer Credit Services Inc

By: Scott Wallace

Title: President

General Electric Capital Corporation

By: _____

Title: Vice President

**AFFIDAVIT OF SALE
OF ACCOUNT
BY ORIGINAL CREDITOR**

State of GEORGIA, County of FULTON COUNTY.

John Hart being duly sworn, deposes and says:

I am over 18 and not a party to this action. I am the Vice President of General Electric Capital Corporation, a Delaware Corporation, GE Money Bank, a federal savings bank, and Retailer Credit Service Inc., a Delaware Corporation (creditor). In that position I am a custodian of the creditor's books, and am aware of the process of the sale and assignment of electronically stored business records.

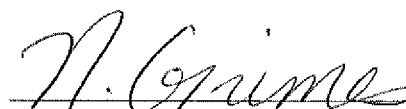
On or about 6/30/10 (date) General Electric Capital Corporation, a Delaware Corporation, GE Money Bank, a federal savings bank, and Retailer Credit Service Inc. (creditor) sold a pool of charged-off accounts (the Accounts) by a Purchase and Sale Agreement and a Bill of Sale to MIDLAND FUNDING, LLC (debt buyer). As part of the sale of the Accounts, electronic records and other records were transferred on individual Accounts to the debt buyer. These records were kept in the ordinary course of business of General Electric Capital Corporation, a Delaware Corporation, GE Money Bank, a federal savings bank, and Retailer Credit Service Inc. (creditor).

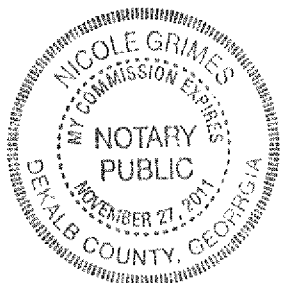
I am not aware of any errors in these accounts. The above statements are true to the best of my knowledge.

Signed this 30th day of June, 2010


(Name of Affiant)

Sworn before me this 30th day of June, 2010.


(Notary Stamp)



CONFIDENTIAL INFORMATION

Sep 01 2010 10:33AM E Carl Touchstone, P.C.

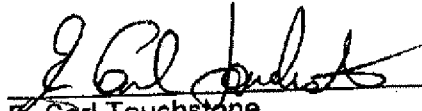
404 688-3677

p. 3

BLANKET CERIFICATE OF CONFORMITY

I, E. Carl Touchstone, an attorney-at-law admitted to practice in the State of Georgia and fully acquainted with the laws of the State of Georgia pertaining to the acknowledgement or proof of deeds of real property to be recorded therein, do hereby certify that I am duly qualified to make this Certificate of Conformity and that the acknowledgement or proof upon the affidavits of merit were taken by Nicole Grimes, notary public in the State of Georgia, in the manner prescribed by the laws of the State of Georgia and conforms to the laws thereof in all respects.

IN WITNESS WHEREOF, I have hereunto set my signature, on August 27th 2010.


E. Carl Touchstone
Attorney at Law, State of Georgia

**PETERS DECLARATION IN OPPOSITION
EXHIBIT B**

State of NEW YORK

MIDLAND FUNDING LLC DBA IN NEW YORK AS MIDLAND FUNDING OF DELAWARE LLC,
Plaintiff

Index Number CEC-11 006838

-vs-

File No. M272168

CRAIG MOORE,
Defendant(s).

AFFIDAVIT OF PAULA HANSEN

Paula Hansen, whose business address is 16 Mcleland Road Suite 101, St. Cloud, MN 56303, certifies and says:

1. I am employed as a Legal Specialist and have access to pertinent account records for Midland Credit Management, Inc. ("MCM"), servicer of this account on behalf of plaintiff. I am a competent person over eighteen years of age, and make the statements herein based upon personal knowledge of those account records maintained on plaintiff's behalf. Plaintiff is the current owner of, and/or successor to, the obligation sued upon, and was assigned all the rights, title and interest to defendant's GE MONEY BANK account 6008894762841387 (MCM Number 8535261151) (hereinafter "the account"). I have access to and have reviewed the records pertaining to the account and am authorized to make this affidavit on plaintiff's behalf.
2. I am familiar with the manner and method by which MCM creates and maintains its business records pertaining to this account. The records are kept in the regular course of business. It was in the regular course of business for a person with knowledge of the act or event recorded to make the record or data compilation, or for a person with knowledge to transmit information thereof to be included in such record. In the regular course of business, the record or compilation is made at or near the time of the act or event. The relevant financial information concerning the account includes the following:

AFFIDAVIT OF PAULA HANSEN - 1

3. The account shows that the defendant(s) owed a just and true balance of \$504.03 as of 2011-05-15; and I am advised that interest is due from 2011-05-15 accrued at a rate of 9.00% as an annual percentage rate, amounting to \$4.85, making a total due and owing of \$508.88.
4. Upon information and belief, this action is based upon a revolving credit agreement entered into between defendant(s) and the original credit grantor. Upon information and belief, pursuant to the agreement, defendant(s) agreed to pay monthly installments to the original credit grantor for all goods and/or services and/or cash advances. Upon information and belief, defendant(s) used or authorized the use of the credit card account to obtain loans from the original credit grantor for the purpose of obtaining goods and/or services and/or cash advances but failed to make the payments due pursuant to the agreement.

AFFIDAVIT OF PAULA HANSEN - 2

CONFIDENTIAL INFORMATION

I certify under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

SEP 21 2011

Date

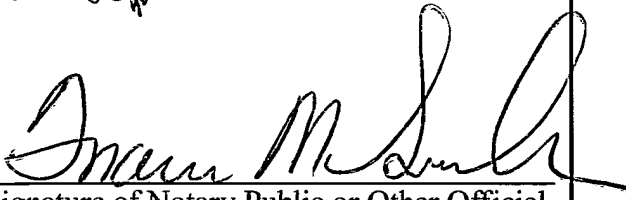
Paula Hansen

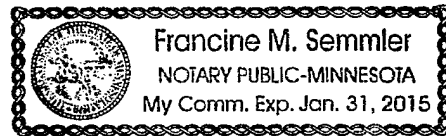
STATE OF MINNESOTA)
) ss
COUNTY OF STEARNS)

The foregoing instrument was acknowledged before me on this 21 day of September, 2011, by Paula Hansen, a Legal Specialist of Midland Credit Management, Inc., a corporation under the laws of the State of Minnesota on behalf of the corporation.

Subscribed and sworn to before me this 21 day of September, 2011.

Notarial Stamp or Seal (or other Title or Rank):


Signature of Notary Public or Other Official



NJ44

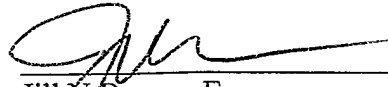
Pressler and Pressler

AFFIDAVIT OF PAULA HANSEN - 3

CERTIFICATE OF CONFORMITY

I, Jill N Brown, an attorney-at-law of the State of Minnesota who resides in the State of Minnesota and is fully acquainted with the laws of the State of Minnesota pertaining to the acknowledgment or proof of deeds of real property to be recorded therein, do hereby certify that I am duly qualified to make this certificate of conformity pursuant to Section 299-a of the Real Property Law of the State of New York and hereby certify that the acknowledgment or proof upon the foregoing document was taken by Francine M. Semmler, a notary public in the State of Minnesota, in the manner prescribed by the laws of the State of Minnesota and conforms to the laws thereof in all respects.

IN WITNESS WHEREOF, I have hereunto set my signature, this 22 day of September, 2011.



Jill N. Brown, Esq.
Attorney at Law, ID# 278117
State of Minnesota